

GOVERNMENT OF TELANGANA
A B S T R A C T

Revenue (Endowments) Department – Telangana Charitable and Hindu Religious Institutions & Endowments Act, 1987 – Section 145(4) – Appeal filed by Sri Mahant Kannaya Das Nirmohi – Disposed – Reg.

REVENUE (ENDOWMENTS-II) DEPARTMENT

G.O.RT.No. 384

Dated: 31-08-2016

Read the following:-

1. Commissioner of Endowments Department, Prgs. D.Dis No.H1/34207/05, Dt:06-08-2005.
2. Hon'ble High Court of Judicature at Hyderabad – W.P.No.19884 of 2015, dated:02-07-2015.

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O R D E R:

This appeal under section 145(4) of Telangana Charitable and Hindu Religious Institutions & Endowments Act, 1987, herein after called "the Act", is directed against the order of Commissioner of Endowments in the reference 1st read above, wherein the Commissioner acting under section 145(1) of the Act permitted the subject matter Mutt, Nirmohi Mutt (Sri Balaji and Sri Hanuman Temples), Dholpet, to be adopted by the ISKCON, Abids, Hyderabad on the request made by the Mahanth of the said Mutt.

2. The counsel for appellant submitted in his oral and written arguments that late Sri Balabhadra Das was the original Mahanth of Nirmohi Mutt wherein Sri Balaji and Sri Hanuman temples are located in Dholpet. Sri Balabhadra Das appointed the appellant as his successor on 07-07-2002 performing Chader Proshi in the presence of members of Bharatiya Shath Darshan and Santh Samaj Sangh as per the rituals of the Vaishnavi Nirmohi group. Sri Balabhadra Das expired on 05-07-2010 and after his demise, the appellant is performing daily pujas and rituals in the Mutt. It is further submitted that subsequent to demise of Sri Balabhadra Das the appellant came to know about the impugned proceedings reference 1st read above, that the Regional Joint Commissioner in his report dated:10-01-2008 observed that the Mutt being published under section 6 of the Act, cannot be handed over to the third respondent i.e., ISKCON, that the appellant should be appointed as Mahanth under section 53 of the Act as late Sri Balabhadra Das appointed him as successor, that as his representations to the Commissioner in this regard did not bear fruit the present appeal is filed pursuant to the orders of the Hon'ble High Court, dated:28-04-2014 in W.P.No.30796 of 2010.

3. It is urged in the appeal that the impugned proceedings ought not to have been issued, as the appellant by that time was functioning as the duly appointed successor to late Sri Balabhadra Das and has been rendering the daily pujas and other rituals in the Mutt and hence eligible to be appointed as Mahanth under section 53 of the Act. The ISKCON, Abids, on the other hand has not managed the affairs of the Mutt at any time. It is further contended that the impugned order does not disclose that the Mutt is not capable of maintaining itself out of its own funds so as to fulfil the ingredients of section 145(1) of the Act and is also vitiated for want of notice to the appellant.

4. The counsel for ISKCON, Abids (R-3) in his oral and written arguments submitted that it is not true that the appellant was appointed as his successor by late Sri Balabhadra Das on 07-07-2002 and has been performing pujas and rituals in Mutt. This would be evident from the representation addressed by the late Mahanth to the Commissioner, Endowments and also the letter dated:11-06-2005 addressed to the President, ISKCON, which are further corroborated by the agreement -

dated:18-07-2005 executed by the late Mahanth in favour of ISKCON basing on which the impugned proceedings were issued. The ISKCON has been taking care of the Mutt ever since adoption duly performing all religious rituals and the appellant never turned up between 2005 and 2010 till the death of the late Mahanth. The appellant did not even perform the last rites of late Sri Balabhadra Das and it is ISKCON which took care of him in his last days. The present claim of the appellant made after the demise of the late Sri Balabhadra Das is frivolous and an illegal claim over the Mutt property. The three documents referred above show that late Sri Balabhadra Das himself stated that he had no chela or male progeny. Hence, the appellant has no locus standi to file the present appeal. Bharatiya Shath Darshan and Santh Samaj Sangh do not have any authority to certify the succession of the appellant as they have no authority over Nirmohi Mutt. It is further submitted that late Sri Balabhadra Das himself approached Commissioner and ISKCON for adoption as the Mutt was not in a position to maintain itself and ever since adoption the premises of the Mutt, earlier prone to misuse, is being maintained in a clean and sacred manner to the satisfaction of the devotees in the vicinity. ISKCON is also looking after the family of the late Mahanth. The appellant has not shown any means to maintain the Mutt even as of now. Further, publication of the Mutt under section 6(d) of the Act does not preclude the operation of section 145 of the Act as the term religious institution as defined in section 2(23) of the Act includes a Mutt and section 145 applies to religious institutions. The impugned order is as per law and the question of appointing the appellant as a Mahanth under section 53 does not arise in view of the adoption order in force. It is finally submitted that the Mutt has no other immovable properties, that the appellant has not filed any evidence to prove the sufficiency of funds to maintain the Mutt at the time of adoption or even now and the revocation of the adoption would therefore adversely affect the interests of the subject matter the Mutt.

5. The relevant provisions pertaining to filling up of vacancies in the office of Mathadhipati and nomination of successor Mathadhipati in the Act are as under.

Section 53:-

- (1) *Where a permanent vacancy occurs in the office of the Mathadhipathi, by reason of death or resignation or on account of his removal under Section 51 or otherwise the person next entitled to succeed according to the rule of succession laid down by the founder, or where no such rule is laid down, according to the usage or custom of the math, or where no such usage or custom exists according to the law of succession, for the time being in force, shall with the permission of the [Dharmika Parishad] succeed to the office of the Mathadhipathi.*
- (2) *A person for succession to the Office of the Mathadhipathi under sub- section (1) shall possess the following qualifications, namely,-*
 - (a) *basic knowledge of the Hindu Religion and Philosophy;*
 - (b) *knowledge of the relevant scriptures and sampradaya to which the math belongs;*
 - (c) *capacity to impart the knowledge and preach the tenets of the math to the disciples;*
 - (d) *religious temperament with implicit faith in discipline and practice; and*
 - (e) *unquestionable moral character.*

Section 54:-

- (1) *Subject to the provisions of Section 53, a mathadhipathi may nominate his successor. The fact of such nomination shall be intimated to the [Dharmika Parishad], within ninety days of such nomination and the [Dharmika Parishad] may recognise such nomination. A nomination shall not be complete unless it is recognised by the [Dharmika Parishad]. The conditions for recognition shall be such as may be prescribed.*

(2) *Where a Mathadhipathi fails to nominate his successor under sub-section (1) or where there is no Mathadhipathi, the [Dharmika Parishad] or any officer authorised by [it] shall after due publication convene a meeting with the Mathadhipaths of other maths of the same sampradayam and the disciples of the math and recognise the person nominated in such meetings as a Mathadhipathi subject to the provisions of this Act. The procedure for convening the meeting and method of publication shall be such as may be prescribed.*

6. Government observe that, section 54 of the Act is relevant to the claim of the appellant in regard to his appointment as successor to late Sri Balabhadra Das. Section 54 stipulates that a Mathadhipati may nominate a successor subject to the provisions of section 53. It further provides such nomination shall be intimated to the Dharmika Parishad (Commissioner prior to 03-01-2008) within (90) days of such nomination and a nomination shall not be complete unless it is recognised by the Dharmika Parishad. In the case of the appellant neither the fulfilment of the provisions of sub-sections (1) and (2) of section 53 nor the intimation and recognition as provided in section 54(1) is urged or proved. The appellant, therefore, cannot be recognised as the successor Mahanth of late Sri Balabhadra Das. The objection taken by ISKCON(R-3) to his locus standi, it follows, is well founded.

7. Government also observe from a perusal of copies of the letters addressed by late Sri Balabhadra Das to Commissioner, Endowments and the President, ISKCON and the agreement dated:18.07.2005 between late Sri Balabhadra Das and the President, ISKCON, referred to in para 4 supra, that late Sri Balabhadra Das stated therein in clear terms that he does not have any chela or male progeny to execute duties of the Mutt further and that he was not in a position to move and execute any of the religious duties to be performed as a Mahanth to uphold the sanctity and dignity in the said Mutt in all respects. Admittedly, the Mutt has no other properties except the two temple premises. In the event, the impugned order, which refers to the circumstances reported by the then Mahanth of the subject Mutt before according permission for the adoption, cannot be viewed as not fulfilling the ingredients of section 145(1) of the Act. ISKCON (R-3) is an institution of repute and the interests of the subject matter Mutt would be well served with the impugned adoption order.

8. In the circumstances, Government do not see any ground to interfere with the impugned order of the Commissioner, Endowments in the reference 1st read above.

9. The appeal is accordingly dismissed.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

N.SIVA SANKAR
SECRETARY TO GOVERNMENT (FAC)

To

The Commissioner of Endowments Department, Hyderabad, Telangana State. (R-1)
Sri Mahant Kannaya Das Nirmohi, Chela of Sri (Late) Balabhadra Das,

R/o.13-1-1137, Nirmohi Matth Dhoopet, Hyderabad (R-2), and through his
Counsel Sri M/s Suresh Shiv Sagar Advocate D.No.15-1-503/D1 3rd floor, Ashok
Market, Feel Khana, Hyderabad

The President, ISKON, Hare Rama Hare Krishna Temple, Abids, Hyderabad (R-3)
and through his Counsel Sri K.V.N Pavan Advocate

The Regional Joint Commissioner of Endowments Dept., Telangana, Hyderabad.
The Assistant Commissioner of Endowments, Telangana, Hyderabad

[with a request to serve the notice to all concerned].

Copy to:

The P.S to Minister (Endowments), Telangana, Hyderabad.

The P.S. to Secretary to Government, Revenue (Endowments) Dept., Telangana, Hyd.
SF/SC's.

// FORWARDED :: BY ORDER //

SECTION OFFICER

